

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOSEPH A. CRUM,

Plaintiff,

v.

**9:06-CV-512
(FJS/GJD)**

**MARK DUPELL, ISO Staff, FCI Ray Brook;
HENRY J. SADOWSKI, Regional Counsel;
THOMAS YANDO, ISO Staff, FCI Ray Brook;
and PENA, Officer R&D Staff,**

Defendants.

APPEARANCES

OF COUNSEL

JOSEPH A. CRUM

31353-037

FCC Forrest City, Medium

P.O. Box 3000

Forrest City, AR 72336

Plaintiff *pro se*

**OFFICE OF THE UNITED
STATES ATTORNEY**

218 James T. Foley U.S. Courthouse

445 Broadway

Albany, New York 12207-2924

Attorneys for Defendants

BARBARA D. COTTRELL, AUSA

SCULLIN, Senior Judge

ORDER

In a Report-Recommendation dated September 28, 2007, Magistrate Judge DiBianco recommended that the Court grant Defendants' motion for summary judgment. *See* Dkt. No. 22. Plaintiff filed objections to that recommendation. *See* Dkt. No. 23.

Most of Plaintiff's objections have nothing to do with the merits of his claims and, in fact,

are not objections at all but statements concerning what Plaintiff considers to be the proper legal standards for evaluating a *pro se* litigant's claims. *See, generally, id.* The Court's review of Magistrate Judge DiBianco's Report-Recommendation demonstrates that he applied the appropriate standards and, in fact, gave Plaintiff every benefit of the doubt.

Finally, to the extent that Plaintiff requests leave to file an amended complaint to substitute the United States in place of the individual Defendants with respect to his claim under the Federal Tort Claims Act, the Court denies that request as futile for the reasons that Magistrate Judge DiBianco stated in his Report-Recommendation. Therefore, the Court hereby

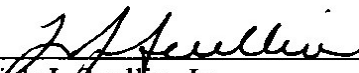
ORDERS that Magistrate Judge DiBianco's September 28, 2007 Report-Recommendation is **ADOPTED IN ITS ENTIRETY for the reasons stated therein**; and the Court further

ORDERS that Defendants' motion for summary judgment is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED.

Dated: March 31, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge